



**<AGENCY TYPE='S'>COMMODITY FUTURES TRADING COMMISSION**

**<SUBJECT>Agency Information Collection Activities; Proposed Collection, Comment Request**

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice.

**SUMMARY:** The Commodity Futures Trading Commission (“CFTC” or “Commission”) seeks public comment on the collection of certain information by the Commission under section 745 of the Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”). The Paperwork Reduction Act (“PRA”) requires federal agencies to publish a notice in the **Federal Register** concerning each proposed collection of information and to allow 60 days for public comment. Section 745 requires the Commission to seek public comment for not less than 30 days with respect to certain industry filings. This notice solicits comments on the provisions of the Commission’s final rulemaking on “Provisions Common to Registered Entities” under which the Commission would collect comments on the industry filings by publication of documents related to the filings and a request for comments on the Commission’s public web site.<sup>1</sup>

**DATES:** Comments must be submitted on or before April 2, 2012.

**ADDRESSES:** You may submit comments, identified by “Part 40 Notice and Comment Collection,” by any of the following methods:

- Agency web site, via its Comments Online process: <http://comments.cftc.gov>. Follow the instructions for submitting comments through the web site.
- Mail: Send to David A. Stawick, Secretary, Commodity Futures Trading Commission, 1155 21st Street, N.W., Washington, DC 20581.

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<sup>1</sup> 76 FR 44776, July 27, 2011.

- Hand delivery/Courier: Same as Mail above.
- Federal eRulemaking Portal: <http://www.regulations.gov/search/index.jsp>. Follow the instructions for submitting comments.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to <http://www.cftc.gov>. You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures set forth in § 145.9 of the Commission's regulations.<sup>2</sup>

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from [www.cftc.gov](http://www.cftc.gov) that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the rulemaking will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

**FOR FURTHER INFORMATION OR A COPY CONTACT:** Bella Rozenberg, Assistant Deputy Director, Division of Market Oversight, Commodity Futures Trading Commission, (202) 418-5119 [brozenberg@cftc.gov](mailto:brozenberg@cftc.gov) or Mathew T. Hargrow, Attorney, Office of the General Counsel, (202) 418-5267, [mhargrow@cftc.gov](mailto:mhargrow@cftc.gov).

**SUPPLEMENTARY INFORMATION:**

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<sup>2</sup> Commission regulations referred to herein are found at 17 CFR Ch. 1 (2010). Commission regulations are accessible on the Commission's website, [www.cftc.gov](http://www.cftc.gov).

Under the PRA, federal agencies must obtain approval from the Office of Management and Budget (“OMB”) for each collection of information they collect or sponsor. “Collection of information” is defined in 44 U.S.C. 3502(3) as “the obtaining, causing to be obtained, soliciting ... facts or opinions by or for any agency, regardless of form or format [from] ten or more persons.” An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires federal agencies to provide a 60-day notice in the **Federal Register** for each proposed collection of information before submitting the collection to OMB for approval. Under OMB regulations, which implement provisions of the PRA, certain “facts or opinions that are submitted in response to a general solicitation of comments from the public, published in the Federal Register or other publications,” 5 CFR 1320.3(h)(4), or “facts or opinions obtained or solicited at or in connection with public hearings or meetings,” 5 CFR 1320.3(h)(8), are excluded from the OMB approval process.

In the Commission’s final rulemaking on provisions common to registered entities,<sup>3</sup> the Commission seeks to implement section 745 of the Dodd-Frank Act,<sup>4</sup> which amends Section 5c of the Commodity Exchange Act (CEA)<sup>5</sup> to enhance compliance by registered entities. This section permits a registered entity to elect to list for trading or accept for clearing any new contract or other instrument, or elect to approve and implement any new rule or rule amendment by providing to the Commission a written certification that the new contract, instrument, rule, or rule amendment complies with the CEA. Such rules or rule amendments become effective after

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<sup>3</sup> 75 FR 67282, Nov. 2, 2010.

<sup>4</sup> Public Law 111-203, 124 Stat. 1376 (2010).

<sup>5</sup> 7 U.S.C. 7a.

ten (10) business days, unless the Commission notifies the registered entity that it is staying the certification because there exist novel or complex issues that require additional time to analyze, an inadequate explanation by the submitting registered entity, or a potential inconsistency with the CEA. Pursuant to section 745 and the final amendments to part 40 of the Commission's regulations,<sup>6</sup> the Commission will provide a not less than a 30-day comment period when it determines that the rule or rule amendment will be stayed. Pursuant to the final rules, the Commission will provide notice of the stay and the request for comment on its web site, as well as specify the manner in which the public may submit comments.<sup>7</sup>

The Commission initially estimated that approximately 45 entities would be affected by the rule certification procedures.<sup>8</sup> The initial estimate determined that these 45 entities would each have approximately 120 responses per year for a total of 5,400 responses.<sup>9</sup> The Commission has amended these numbers in the final rule such that the estimated number of respondents is increased to 70 entities, the average annual responses by each respondent is decreased to 100. These numbers are based upon comments received regarding the proposed rules as well as changes made by the Commission to streamline the product certification process for certain swap contracts. The Commission anticipates that the mandatory responses to the new collection will take approximate 2 hours per response.

The Commission cannot determine with precision how many of the 7,000 responses it expects to receive will be stayed and subject to the notice and comment requirements of section 745 and the part 40 regulations. The Commission anticipates that only a small fraction of these

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<sup>6</sup> 75 FR 67282, 67296 (Nov. 2, 2010).

<sup>7</sup> Id.

<sup>8</sup> Id. at 67290.

<sup>9</sup> Id.

responses would be stayed and subject to a request for comment via website notice, and that each of the stayed rules or rule amendments typically will receive not more than 20 comments, a conservative number based on Commission history with industry filings.

<SIG><DATED>Issued by the Commission this 24th day of January, 2012.

<NAME>David Stawick,

<TITLE>Secretary of the Commission.</SIG>

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